

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**EMMANUEL ROBIN MOFU, M.D.)**

**Case No. 800-2014-003574**

**Physician's and Surgeon's  
Certificate No. C36558**

**Respondent**

**DECISION**

**The attached Stipulated Surrender of License and Disciplinary Order  
is hereby adopted as the Decision and Order of the Medical Board of  
California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on November 1, 2017**

**IT IS SO ORDERED October 25, 2017 .**

**MEDICAL BOARD OF CALIFORNIA**

**By:**



**Kimberly Kirchmeyer  
Executive Director**

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 JOSEPH F. MCKENNA III  
Deputy Attorney General  
4 State Bar No. 231195  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9417  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
11 **MEDICAL BOARD OF CALIFORNIA**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 **EMMANUEL ROBIN MOFU, M.D.**  
15 **495 N. Main Street**  
**Blythe, California 92225-1625**

16 **Physician's and Surgeon's Certificate No.**  
17 **C36558,**

18 Respondent.

Case No. 800-2014-003574

OAH No. 2017050364

**STIPULATED SURRENDER OF  
LICENSE AND DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
23 of California (Board). She brought this action solely in her official capacity and is represented in  
24 this matter by Xavier Becerra, Attorney General of the State of California, and by Joseph F.  
25 McKenna III, Deputy Attorney General.

26 2. Respondent Emmanuel Robin Mofu, M.D., is represented in this proceeding by  
27 attorney Scott J. Harris, Esq., whose address is: 8383 Wilshire Boulevard, Suite 830, Beverly  
28 Hills, California, 90211.

3. On or about June 22, 1975, the Board issued Physician's and Surgeon's Certificate No. C36558 to Emmanuel Robin Mofu, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-003574, and will expire on November 30, 2018, unless renewed.

## JURISDICTION

4. Accusation No. 800-2014-003574 was filed before the Board, and is currently pending against Respondent. On March 2, 2017, a true and correct copy of Accusation No. 800-2014-003574 and all other statutorily required documents were properly served on Respondent by certified mail at his address of record on file with the Board which was: 495 N. Main Street, Blythe, California, 92225-1625. On March 17, 2017, Respondent filed his Notice of Defense contesting Accusation No. 800-2014-003574. A true and correct copy of Accusation No. 800-2014-003574 is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with his counsel, and fully understands the charges and allegations in Accusation No. 800-2014-003574. Respondent also has carefully read, fully discussed with his counsel, and fully understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in Accusation No. 800-2014-003574; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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9. Respondent understands that by signing this stipulation he enables the Executive Director of the Board to issue an Order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate C36558 without further notice to, or opportunity to be heard by, Respondent.

10. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board “shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license.”

12. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the

1 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the  
2 Executive Director, the Board, any member thereof, and/or any other person from future  
3 participation in this or any other matter affecting or involving Respondent. In the event that the  
4 Executive Director on behalf of the Board does not, in her discretion, approve and adopt this  
5 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it  
6 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied  
7 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees  
8 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason  
9 by the Executive Director on behalf of the Board, Respondent will assert no claim that the  
10 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,  
11 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or  
12 of any matter or matters related hereto.

### 13 **ADDITIONAL PROVISIONS**

14 13. This Stipulated Surrender of License and Disciplinary Order is intended by the parties  
15 herein to be an integrated writing representing the complete, final, and exclusive embodiment of  
16 the agreements of the parties in the above-entitled matter.

17 14. The parties agree that copies of this Stipulated Surrender of License and Disciplinary  
18 Order, including signatures of the parties, may be used in lieu of original documents and  
19 signatures and, further, that such copies shall have the same force and effect as originals.

20 15. In consideration of the foregoing admissions and stipulations, the parties agree  
21 the Executive Director of the Board may, without further notice to or opportunity to be heard by  
22 Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

### 23 **DISCIPLINARY ORDER**

24 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C36558, issued  
25 to Respondent Emmanuel Robin Mofu, M.D., is surrendered and accepted by the Medical Board  
26 of California.

27 1. The surrender of Respondent's Physician's and Surgeon's Certificate No. C36558  
28 and the acceptance of the surrendered license by the Medical Board shall constitute the

1 imposition of discipline against Respondent. This stipulation constitutes a record of the  
2 discipline and shall become a part of Respondent's license history with the Medical Board of  
3 California.

4 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in  
5 California as of the effective date of the Medical Board's Decision and Order.

6 3. Respondent shall cause to be delivered to the Medical Board his pocket license and, if  
7 one was issued, his wall certificate on or before the effective date of the Medical Board's  
8 Decision and Order.

9 4. If Respondent ever files an application for licensure or a petition for reinstatement of  
10 Physician's and Surgeon's Certificate No. C36558 in the State of California, the Medical Board  
11 shall treat it as a petition for reinstatement. Respondent must comply with all the laws,  
12 regulations, and procedures for reinstatement of a revoked license in effect at the time the petition  
13 is filed, and all of the charges and allegations contained in Accusation No. 800-2014-003574 shall  
14 be deemed to be true, correct, and admitted by Respondent when the Medical Board determines  
15 whether to grant or deny the petition.

16 5. If Respondent should ever apply or reapply for a new license or certification, or  
17 petition for reinstatement of a license, by any other health care licensing agency in the State of  
18 California, all of the charges and allegations contained in Accusation No. 800-2014-003574 shall  
19 be deemed to be true, correct, and fully admitted by Respondent for the purpose of any Statement  
20 of Issues or any other proceeding seeking to deny or restrict licensure.

21 ACCEPTANCE


22 I have carefully read the above Stipulated Surrender of License and Disciplinary Order and  
23 have fully discussed it with my attorney, Scott J. Harris, Esq. I understand the stipulation and the  
24 effect it will have on my Physician's and Surgeon's Certificate No. C36558. I enter into this  
25 Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently,  
26 and agree to be bound by the Decision and Order of the Medical Board of California.

27 DATED: October 9, 17

Emmanuel Robin Mofu  
EMMANUEL ROBIN MOFU, M.D.  
Respondent

1 I have read and fully discussed with Respondent Emmanuel Robin Mofu, M.D., the terms  
2 and conditions and other matters contained in this Stipulated Surrender of License and  
3 Disciplinary Order. I approve its form and content.

4 DATED: 10.9.17

  
SCOTT J. HARRIS, ESQ.  
Attorney for Respondent

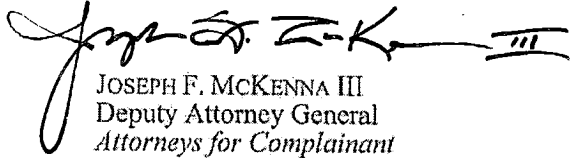
7 ENDORSEMENT

8 The foregoing Stipulated Surrender of License and Disciplinary Order is hereby  
9 respectfully submitted for consideration by the Medical Board of California of the Department of  
10 Consumer Affairs.

11 Dated: October 9, 2017

Respectfully submitted,

12 XAVIER BECERRA  
13 Attorney General of California  
14 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General

15   
16 JOSEPH F. MCKENNA III  
17 Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. 800-2014-003574**

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 JOSEPH F. MCKENNA III  
Deputy Attorney General  
4 State Bar No. 231195  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: "619) 738-9417  
7 Facsimile: "619) 645-2061

8 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO MAY 2, 2017  
BY: R. M. [Signature] ANALYST

10 **BEFORE THE**  
11 **MEDICAL BOARD OF CALIFORNIA**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2014-003574

14 **EMMANUEL ROBIN MOFU, M.D.**  
15 **495 N. Main Street**  
**Blythe, California 92225-1625**

**ACCUSATION**

16 **Physician's and Surgeon's Certificate No.**  
17 **C36558,**

18 Respondent.

19  
20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
24 Affairs (Board).

25 2. On or about June 22, 1975, the Medical Board issued Physician's and Surgeon's  
26 Certificate No. C36558 to Emmanuel Robin Mofu, M.D. (Respondent). The Physician's and  
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
28 herein and will expire on November 30, 2018, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"..."

6. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

7. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"(b) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of the pendency of an action against a licensee charging a felony or

1 misdemeanor immediately upon obtaining information that the defendant is a  
2 licensee. The notice shall identify the licensee and describe the crimes charged and  
3 the facts alleged. The prosecuting agency shall also notify the clerk of the court in  
4 which the action is pending that the defendant is a licensee, and the clerk shall record  
5 prominently in the file that the defendant holds a license as a physician and surgeon.

6 “(c) The clerk of the court in which a licensee is convicted of a crime shall,  
7 within 48 hours after the conviction, transmit a certified copy of the record of  
8 conviction to the board. The division may inquire into the circumstances  
9 surrounding the commission of a crime in order to fix the degree of discipline or to  
10 determine if the conviction is of an offense substantially related to the  
11 qualifications, functions, or duties of a physician and surgeon.

12 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere  
13 is deemed to be a conviction within the meaning of this section and Section  
14 2236.1. The record of conviction shall be conclusive evidence of the fact that the  
15 conviction occurred.”

16 8. Section 2239 of the Code states:

17 “(a) The use or prescribing for or administering to himself or herself, of any  
18 controlled substance; or the use of any of the dangerous drugs specified in Section  
19 4022, or of alcoholic beverages, to the extent, or in such a manner as to be  
20 dangerous or injurious to the licensee, or to any other person or to the public, or to  
21 the extent that such use impairs the ability of the licensee to practice medicine  
22 safely or more than one misdemeanor or any felony involving the use,  
23 consumption, or self-administration of any of the substances referred to in this  
24 section, or any combination thereof, constitutes unprofessional conduct. The  
25 record of the conviction is conclusive evidence of such unprofessional conduct.

26 “(b) A plea or verdict of guilty or a conviction following a plea of nolo  
27 contendere is deemed to be a conviction within the meaning of this section. The  
28 Medical Board may order discipline of the licensee in accordance with Section

1 2227 or the Medical Board may order the denial of the license when the time for  
2 appeal has elapsed or the judgment of conviction has been affirmed on appeal or  
3 when an order granting probation is made suspending imposition of sentence,  
4 irrespective of a subsequent order under the provisions of Section 1203.4 of the  
5 Penal Code allowing such person to withdraw his or her plea of guilty and to enter  
6 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
7 accusation, complaint, information, or indictment.”<sup>1</sup>

8 9. Section 802.1 of the Code states:

9 “(a)(1) A physician and surgeon ... shall report either of the following to the  
10 entity that issued his or her license:

11 “...

12 “(B) The conviction of the licensee, including any verdict of guilty, or plea of  
13 guilty or no contest, of any felony or misdemeanor.

14 “(2) The report required by this subdivision shall be made in writing within 30  
15 days of the date of the bringing of the indictment or information or of the conviction.

16 “(b) Failure to make a report required by this section shall be a public offense  
17 punishable by a fine not to exceed five thousand dollars (\$5,000).”

18 10. Section 1360, title 16, of the California Code of Regulations states:

19 “For the purposes of denial, suspension or revocation of a license, certificate  
20 or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a  
21 crime or act shall be considered to be substantially related to the qualifications,  
22 functions or duties of a person holding a license, certificate or permit under the  
23 Medical Practice Act if to a substantial degree it evidences present or potential

24  
25 <sup>1</sup> There is a nexus between a physician’s use of controlled substances and his or her  
26 fitness to practice medicine, established by the Legislature in section 2239, that “has determined  
27 that conviction of a doctor for a violation of the laws regulating narcotics and dangerous drugs or  
28 a doctor’s personal non-prescribed use of such substances evidences a sufficient danger to the  
public that sanctions should be imposed regardless of the availability of evidence that such  
conduct in fact impaired the doctor’s professional skill.” (*Weissbuch v. Board of Medical  
Examiners* (1974) 41 Cal.App.3d 924, 929.)

1       unfitness of a person holding a license, certificate or permit to perform the  
2       functions authorized by the license, certificate or permit in a manner consistent  
3       with the public health, safety or welfare. Such crimes or acts shall include but not  
4       be limited to the following: Violating or attempting to violate, directly or  
5       indirectly, or assisting in or abetting the violation of, or conspiring to violate any  
6       provision of the Medical Practice Act.”

7                                   **FIRST CAUSE FOR DISCIPLINE**

8                                   **(Conviction of a Crime)**

9       11. Respondent has subjected his Physician’s and Surgeon’s Certificate No. C36558 to  
10      disciplinary action under sections 2227 and 2234, as defined by section 2236, subdivision (a), of  
11      the Code, in that he has been convicted of a crime substantially related to the qualifications,  
12      functions, or duties of a physician and surgeon, as more particularly alleged hereinafter:

13                   **The October 2016 Conviction**

14           A.    On or about November 5, 2015, at approximately 2240 hours, Blythe Police  
15           Department (BPD) Officer J.D. responded to a dispatched radio call regarding a  
16           possible intoxicated driver (Respondent) at the intersection of 14th Avenue and  
17           Broadway, in the City of Blythe, California. Respondent’s vehicle was observed as  
18           “stopped” at the intersection for a “long period of time” even though there was no  
19           other vehicle traffic in or around the intersection. Based upon Respondent’s  
20           suspicious driving pattern, an enforcement stop of his vehicle was initiated and a  
21           driving under the influence (DUI) evaluation was conducted by Officer J.D.

22           B.    Significantly, Officer J.D. had personal knowledge of Respondent based  
23           upon several previous DUI incidents involving multiple arrests of Respondent by  
24           BPD. When Officer J.D. first spoke with Respondent, he observed several  
25           objective symptoms of intoxication including: slurred speech; bloodshot red and  
26           watery eyes; and that Respondent walked with an unsteady gait.

27           C.    Based upon Respondent’s suspicious driving pattern and objective  
28           symptoms of intoxication, Officer J.D. administered numerous Field Sobriety Tests

1 (FST) to Respondent. During the FSTs, Respondent demonstrated significant mental  
2 and physical impairment including, his inability to follow basic test directions and the  
3 inability to maintain his balance. In fact, Respondent lost his balance at one point and  
4 nearly fell over on to the ground. Because of Respondent's level of intoxication,  
5 Officer J.D. had to discontinue administering FSTs for safety reasons.

6 D. Based upon the facts and totality of the circumstances including,  
7 Respondent's suspicious driving pattern, his objective symptoms of intoxication, and  
8 his poor performance on the FSTs indicating significant mental and physical  
9 impairment, Officer J.D. formed the opinion that Respondent was driving under the  
10 influence of drugs and unable to safely operate his vehicle on the road. Consequently,  
11 Officer J.D. arrested Respondent for violation of Vehicle Code section 23152,  
12 subdivision (e), [Driving Under the Influence of Prescription Drugs].<sup>2</sup>

13 E. After his arrest, Respondent was transported to BPD station where an  
14 inventory search of Respondent's person produced four (4) small oval pills from  
15 his pants pocket. Respondent told Officer J.D. that the pills were "Ambien."<sup>3</sup>

16 F. At BPD, Respondent provided a breath sample that measured 0.00  
17 percent Blood Alcohol Concentration (BAC). Respondent also provided a blood  
18 sample at the station that was later screened for drugs. The results of the drug  
19 screen detected Ambien in Respondent's blood at a level of 211 ng/mL. No other  
20 drugs were identified in Respondent's blood sample by the drug screen.

21 <sup>2</sup> Effective September 28, 2016, section 23152 of the Vehicle Code was amended to read,  
22 in pertinent part, as follows:

23 "..."

24 "(f) It is unlawful for a person who is under the influence of any drug to drive a vehicle.

25 "..."

26 <sup>3</sup> Ambien is a brand name for zolpidem tartrate, a Schedule IV controlled substance  
27 pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant  
28 to Business and Professions Code section 4022. As a controlled substance, Ambien is a sedative  
used for the short-term treatment of insomnia, typically two to three (2 to 3) weeks. Ambien has  
central nervous system depressant effects and its use is associated with increased incidence of  
impaired driving.

1           G. On or about February 5, 2016, the Riverside County District Attorney's  
2 Office filed a criminal complaint against Respondent in the matter of *The People*  
3 *of the State of California v. Emmanuel Robin Mofu, Dr.*, Superior Court Case No.  
4 BLM1600094. The criminal complaint charged the Respondent with committing  
5 one (1) misdemeanor:

6           1) Vehicle Code Section 23152, subdivision (e), wherein,  
7 Respondent did willfully and unlawfully drive a vehicle while under the influence  
8 of any drug.

9           H. On or about October 13, 2016, Respondent was convicted of Vehicle  
10 Code Section 23103, subdivision (a), [Reckless Driving]. On the prosecutor's  
11 statement of reasons for motion to substitute the reduced charge of "reckless  
12 driving" for DUI, it stated that there were "issues with one of the witnesses."  
13 Notwithstanding the reduction to "reckless driving" Respondent did accept, as part  
14 of his plea agreement, three (3) years of probation that included DUI terms and  
15 conditions, which terms and conditions are generally ordered by courts in  
16 connection with convictions for DUI cases.

17           I. Respondent failed to report his October 13, 2016, misdemeanor  
18 conviction to the Board.

19 **The February 2014 Arrest for DUI**

20           J. On or about February 27, 2014, at approximately 0838 hours, BPD  
21 Officer E.G. responded to a dispatched radio call of a non-injury accident on the  
22 100 hundred block of N. 9th Street, in the City of Blythe. Upon arrival at the  
23 incident location, Officer E.G. observed a vehicle with moderate damage to its  
24 front right bumper, right headlamp, right fender, and damage to the passenger side  
25 mirror and door on the right side of the vehicle. Officer E.G. then contacted  
26 Respondent who was identified by his suspended California driver's license.  
27 Respondent admitted to Officer E.G. that he had been the driver of the vehicle and  
28 that there had been no other passengers in it with him.

1           K.    After contacting Respondent, Officer E.G. took statements from two (2)  
2           eyewitnesses who had witnessed Respondent's driving and collisions. Officer E.G.  
3           spoke to Witness T.G., who had nearly been hit by Respondent's vehicle as it drove  
4           by him on N. 9th Street. Witness T.G. explained that he had opened his vehicle's  
5           driver's side door and reached in to turn on the ignition and, while standing in the  
6           doorway area of his car he felt Respondent's vehicle drive right past him and collide  
7           with the open door of his own vehicle. Witness T.G. stated that he began to yell at  
8           Respondent's vehicle to stop. Respondent eventually stopped his vehicle and then  
9           began to drive in reverse towards Witness T.G.'s location.

10          L:   Officer E.G. then spoke to Witness J.L. who stated that he had heard a  
11          "loud bang" as he drove by Witness T.G.'s parked vehicle on N. 9th Street.  
12          Witness J.L. then observed Witness T.G. yelling at Respondent's vehicle as it was  
13          driving away. Witness J.L. stated that he had stopped his vehicle to check on  
14          Witness T.G. to make sure that he had not been injured. At this point, Witness J.L.  
15          observed that Witness T.G. had not been injured and also noted the extent of  
16          damage to Witness T.G.'s parked car. Witness J.L. explained that he did not see  
17          Respondent's vehicle hit the other vehicle, but he did observe Respondent stop his  
18          own vehicle and begin to drive in reverse back towards the accident location.  
19          Witness J.L. further explained that as Respondent drove his vehicle in reverse he  
20          collided into the trailer being pulled by Witness J.L.'s truck. Witness J.L. then  
21          observed Respondent stumble out of his vehicle and fall to the ground. Witness  
22          J.L. stated that Respondent got back up from the ground, walked over to where he  
23          was standing with Witness T.G., and offered to pay for Witness T.G.'s door.

24          M.   BPD Officer S.A. responded to the incident location and conducted a  
25          DUI evaluation of Respondent. Significantly, Officer S.A. noted in his arrest  
26          report that he had personal knowledge of Respondent from prior police contacts  
27          involving Respondent and his abuse of Ambien. When Officer S.A. first spoke  
28          with Respondent, he observed several objective symptoms of intoxication

1 including: slow and slurred speech; red, watery and glassy eyes; and that  
2 Respondent staggered as he walked.

3 N. Based upon Respondent's collision and objective symptoms of  
4 intoxication, Officer S.A. administered FSTs to Respondent. During the FSTs,  
5 Respondent demonstrated significant physical impairment and nearly fell on the  
6 ground during two (2) of the tests. Because of Respondent's level of intoxication,  
7 Officer S.A. had to discontinue administering FSTs for safety reasons.

8 O. Based upon the facts and totality of the circumstances including,  
9 Respondent's collision, his objective symptoms of intoxication, and his poor  
10 performance on the FSTs indicating significant physical impairment, Officer S.A.  
11 formed the opinion that Respondent was driving under the influence of drugs and  
12 unable to safely operate his vehicle on the road. Consequently, Respondent was  
13 arrested for violation of Vehicle Code section 23152, subdivision (a), [DUI].

14 P. After his arrest, Respondent was transported to BPD station where he  
15 provided a urine sample that was later screened for alcohol and/or drugs by a private  
16 toxicology laboratory. The results of the drug screen detected 0.00 percent BAC, but  
17 Ambien was detected in Respondent's urine sample. However, Respondent's urine  
18 sample was collected in a container that was not approved by the Department of  
19 Justice, Bureau of Forensic Services. Therefore, because Respondent's urine sample  
20 was obtained in a "non-DOJ" collection container, the Riverside County District  
21 Attorney's Office declined to file a criminal case for DUI against Respondent.

22 Q. On or about November 15, 2016, Investigator Larry Bennett and  
23 Investigator Adriane Ronderos with the Division of Investigations, Health Quality  
24 Investigations Unit (HQIU), served Respondent at his medical office with a  
25 subpoena to appear for a subject interview scheduled for December 5, 2016.  
26 Respondent failed to appear for the subject interview on December 5, 2016. In  
27 addition, Respondent failed to contact investigators from HQIU after the scheduled  
28 subject interview to provide a reason(s) for his failure to appear for the interview.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Use of Controlled Substances in a Dangerous Manner)**

3 12. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
4 C36558 to disciplinary action under sections 2227 and 2234, as defined by section 2239,  
5 subdivision (a), of the Code, in that he used controlled substances, to the extent, or in such a  
6 manner as to be dangerous or injurious to Respondent, or to any other person or to the public, as  
7 more particularly alleged in paragraph 11, subsections A, B, C, D, E, F, G, H, I, J, K, L, M, N, O,  
8 and P, above, which is hereby incorporated by reference and realleged as if fully set forth herein.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Failure to Report Misdemeanor Conviction)**

11 13. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
12 C36558 to disciplinary action under sections 2227 and 2234, as defined by section 802.1,  
13 subdivision (a)(1), subsection (B), of the Code, in that he failed to report his misdemeanor  
14 conviction to the Board, as more particularly alleged in paragraph 11, subsections A, B, C, D, E,  
15 F, G, H, and I, above, which is hereby incorporated by reference and realleged as if fully set forth  
16 herein.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(General Unprofessional Conduct)**

19 14. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
20 C36558 to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the  
21 Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical  
22 profession, or conduct which is unbecoming a member in good standing of the medical  
23 profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged  
24 in paragraphs 11 through 13, above, which are hereby incorporated by reference and realleged as  
25 if fully set forth herein.

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1 **FIRST CAUSE FOR FINE**

2 **(Violation of Section 802.1)**

3 15. Respondent is subject to being fined under section 802.1, as defined by section 802.1,  
4 subdivision (a)(1), subsection (B), of the Code, for failing to report in writing, within thirty (30)  
5 days, his misdemeanor conviction for Vehicle Code section 23103, subdivision (a), as more  
6 particularly alleged in paragraph 11, subsections A, B, C, D, E, F, G, H, and I, above, which is  
7 hereby incorporated by reference and re-alleged as if fully set forth herein.

8 **DISCIPLINARY CONSIDERATIONS**

9 16. To determine the degree of discipline, if any, to be imposed on Respondent,  
10 Complainant alleges that on or about May 30, 1980, in a prior disciplinary action entitled *In the*  
11 *Matter of the Accusation Against Emmanuel Robin Mofu, M.D.*, Case No. D-2430, the Division of  
12 Medical Quality, Board of Medical Quality Assurance, State of California, revoked Respondent's  
13 Physician's and Surgeon's Certificate No. C36558 based on multiple findings including: that he  
14 assisted and abetted the unlicensed practice of medicine; that he prescribed dangerous drugs  
15 without conducting good faith prior examination; that he violated state statutes regulating  
16 controlled substances by prescribing Quaalude, Tuinal, Biphedamine and Empirin Compound No.  
17 4 to persons not under his treatment for a pathology or condition other than addiction to a  
18 controlled substance; and that he violated state statutes regulating controlled substances by  
19 prescribing schedule II and schedule III controlled substances without making a record. That  
20 Decision is now final and is incorporated by reference as if fully set forth herein.

21 **FACTORS IN AGGRAVATION**

22 17. On or about January 25, 2001, Respondent was arrested for a misdemeanor DUI.

23 A. Briefly, on that date at approximately 2306 hours, Respondent crashed  
24 his vehicle into a parked car while making a turn onto the 400 block of N. 8th  
25 Street, in the City of Blythe.

26 B. BPD Officer S.H., who responded to a dispatched radio call of a non-  
27 injury traffic collision, interviewed a witness at the incident location about the  
28 accident. Witness J.H. stated that, at approximately 2300 hours, he heard a loud

1 noise outside of his residence so he went outside and saw Respondent standing  
2 next to the driver's side of Respondent's vehicle with the engine running. Witness  
3 J.H. approached Respondent and confirmed with him that he was not injured.  
4 Witness J.H. further stated that Respondent appeared to be intoxicated because he  
5 was slurring his words and was unsteady on his feet. Witness J.H. explained that  
6 he turned Respondent's vehicle engine off and handed the keys to him, and then he  
7 briefly returned to his residence to call the police. After Witness J.H. returned to  
8 Respondent's vehicle, he saw Respondent back in his vehicle with the engine  
9 running. Witness J.H. stated that he believed Respondent was trying to leave the  
10 scene of the accident and, therefore, he told Respondent to get out of the vehicle  
11 and then he turned off the vehicle's engine.

12 C. Officer S.H. contacted Respondent at the accident location and observed  
13 that he had the following objective symptoms of intoxication: red and droopy eyes;  
14 swaying and needed assistance walking; and slurred and incoherent speech.

15 D. Respondent performed several FSTs but was unable to perform them as  
16 instructed. During all of the FSTs, Respondent demonstrated physical impairment  
17 by failing to maintain his balance and mental impairment by failing to follow basic  
18 directions. At one point, Respondent asked Officer S.H. to let him go home because  
19 he lived nearby. Officer S.H. then asked Respondent if he knew where he was, and  
20 Respondent replied "Yes, I'm on Tenth St., I live here." In fact, the two of them  
21 were standing on the 400 block of N. 8th Street when Officer S.H. asked him the  
22 question. Officer S.H. then asked Respondent where exactly did he live, at which  
23 point Respondent pointed at a specific home and stated (mistakenly) that he lived at  
24 that home. Respondent also specifically identified (again, mistakenly) a vehicle that  
25 was parked in the home's driveway as belonging to his wife. Due to Respondent's  
26 level of mental impairment, he was unable to recognize his own home and failed to  
27 recognize that he did not even live on the street where the accident occurred.

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1 E. Based upon his investigation, including Respondent's collision with a  
2 parked car and exhibiting significant signs of physical and mental impairment,  
3 Officer S.H. arrested Respondent for DUI.

4 F. Following his arrest, Respondent provided a blood sample that was later  
5 screened for alcohol and/or drugs. The results of the drug screen detected Ambien  
6 in Respondent's blood at a level of .32 mg/mL, which was considered an  
7 "elevated" result. No other drugs were identified in Respondent's blood sample,  
8 and his BAC measured 0.00 percent.

9 G. On or about May 25, 2001, the Riverside County District Attorney's  
10 Office filed a criminal complaint against Respondent in the matter of *The People*  
11 *of the State of California v. Emmanuel Robin Mofu*, Superior Court Case No.  
12 BLM018362. The criminal complaint charged the Respondent with committing a  
13 misdemeanor violation of Vehicle Code Section 23152, subdivision (a). No court  
14 records could be located for this case and, due to passage of time since its filing  
15 nearly sixteen (16) years ago, the court records were likely purged pursuant to  
16 Government Code section 68152, subdivision (c), subsection (7), which permits  
17 courts to destroy records for misdemeanors alleging a violation of Section 23103,  
18 23152, or 23153, of the Vehicle Code after ten (10) years.

19 18. On or about September 30, 1997, Respondent was arrested for a misdemeanor DUI.

20 A. Briefly, on that date at approximately 2219 hours, off-duty BPD Officer  
21 J.C. observed Respondent driving his vehicle along E. Chanslor Way, in the City  
22 of Blythe. Officer J.C. witnessed Respondent drive his vehicle over a curb and  
23 knock a tree down standing next to a sidewalk. Respondent, after striking the tree  
24 then continued driving his vehicle over bushes and across a residential lawn, at  
25 which point his vehicle crashed into a power pole and came to a rest.

26 B. BPD Officer E.E. responded to a dispatched radio call of a non-injury  
27 collision at the accident location. Upon arrival, Officer E.E. contacted Respondent  
28 and observed that he had the following objective symptoms of intoxication: droopy

1 and watery eyes; swaying on his feet; and very slurred speech. Significantly,  
2 Officer E.E. questioned Respondent about the accident and, at one point,  
3 Respondent fell asleep while speaking to him.

4 C. Respondent performed several FSTs but was unable to perform them as  
5 instructed. During the hand coordination test, Respondent's level of mental  
6 impairment was demonstrated by his inability to simply count numbers in order.  
7 During all of the FSTs, Respondent swayed significantly and nearly fell over  
8 several times.

9 D. Based upon his investigation, including Respondent's reckless driving  
10 and exhibiting significant signs of physical and mental impairment, Officer E.E.  
11 arrested Respondent for DUI.

12 E. At BPD, Respondent provided a urine sample that was later screened for  
13 alcohol and/or drugs. Respondent's urine sample measured 0.00 percent BAC. No  
14 other drugs were identified in Respondent's urine sample by the drug screen.

15 F. On or about October 3, 1997, the Riverside County District Attorney's  
16 Office filed a criminal complaint against Respondent in the matter of *The People*  
17 *of the State of California v. Emmanuel Robin Mofu*, Superior Court Case No.  
18 BLM013307. The criminal complaint charged the Respondent with committing a  
19 misdemeanor violation of Vehicle Code Section 23103.5. No court records could  
20 be located for this case and, due to passage of time since its filing over (19) years  
21 ago, the court records were likely purged pursuant to Government Code section  
22 68152, subdivision (c), subsection (7), which permits courts to destroy records for  
23 misdemeanors alleging a violation of Section 23103, 23152, or 23153, of the  
24 Vehicle Code after ten (10) years.

25 19. On or about August 28, 1997, Respondent was arrested for a misdemeanor DUI and  
26 violation of Vehicle Code section 20002, a misdemeanor [Leaving An Accident Scene].

27 A. Briefly, on that date at approximately 0028 hours, Respondent crashed  
28 his vehicle into a parked car while driving along the 400 block of N. 2nd Street, in

1 the City of Blythe. Respondent then fled the scene of the accident without  
2 stopping to investigate about property damage or whether any other individuals  
3 had been involved in the collision.

4 B. BPD Officer D.S., who responded to a dispatched radio call of a hit and  
5 run traffic accident, was contacted by a witness who had followed Respondent by  
6 car to a residence where Respondent had stopped and parked his damaged vehicle  
7 in the driveway. The witness stated that Respondent's vehicle had suffered  
8 significant damage from the collision. The witness further stated that he had  
9 observed Respondent's vehicle drag its front right side along the road as  
10 Respondent weaved his vehicle across the center line and nearly struck the curb,  
11 twice.

12 C. Based upon his investigation, Officer D.S. contacted Respondent at his  
13 residence where his significantly damaged vehicle was observed parked in the  
14 driveway. Respondent, still wearing hospital scrubs, admitted to Officer D.S. that  
15 he had been driving his vehicle back from the hospital when the collision occurred.  
16 Respondent fell asleep several times while speaking with Officer D.S. about the  
17 incident. Based upon the collision, Respondent's admission to driving, and  
18 significant signs of physical and mental impairment exhibited by Respondent,  
19 Officer D.S. arrested Respondent for DUI and leaving the scene of an accident.<sup>4</sup>

20 D. Significantly, an inventory search of Respondent's vehicle produced two  
21 (2) bottles of Ambien that were prescribed to an individual named F.A. One bottle  
22 was empty and the other contained thirty (30) tablets. Respondent admitted to  
23 Officer D.S. that the prescriptions were not his but that they had belonged to his  
24 "cousin."

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27 <sup>4</sup> Prior to arresting Respondent, Officer D.S. obtained a breath sample from him using the  
28 Preliminary Alcohol Screening (PAS) device. Respondent's breath sample measured 0.00 percent BAC.

1 E. At BPD, Respondent gave a breath sample that measured 0.00 percent  
2 BAC. Respondent also provided a urine sample that was later screened for alcohol  
3 and/or drugs. The results of the drug screen detected Ambien in Respondent's  
4 urine at a level of 410 ng/mL. No other drugs were identified in Respondent's  
5 urine sample by the drug screen.

6 F. On or about September 15, 1997, the Riverside County District  
7 Attorney's Office filed a criminal complaint against Respondent in the matter of  
8 *The People of the State of California v. Emmanuel Robin Mofu*, Superior Court  
9 Case No. BLM013223. The criminal complaint charged the Respondent with  
10 committing a misdemeanor violation of Vehicle Code Section 23152, subdivision  
11 (a). No court records could be located for this case and, due to passage of time  
12 since its filing over nineteen (19) years ago, the court records were likely purged  
13 pursuant to Government Code section 68152, subdivision (c), subsection (7),  
14 which permits courts to destroy records for misdemeanors alleging a violation of  
15 Section 23103, 23152, or 23153, of the Vehicle Code after ten (10) years.

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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number 36558, issued to Respondent Emmanuel Robin Mofu, M.D.;

2. Revoking, suspending or denying approval of Respondent Emmanuel Robin Mofu, M.D.'s, authority to supervise physician assistants and advanced practice nurses, pursuant to section 3527 of the Code;

3. Ordering Respondent Emmanuel Robin Mofu, M.D., to pay the Medical Board the costs of probation monitoring, if placed on probation; and

4. Taking such other and further action as deemed necessary and proper.

DATED: March 2, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*